

## WATER COUNCIL MEETING

WebEx Virtual Meeting  
Concord, N.H.

September 9, 2020  
9:00 a.m.

**Members present:** Chairman Gilbert Councilors: Croasdale, Boisvert, Butler, DeCurtis, Gegas, Geisser, Henderson, O'Brien, Rawnsley, Spaulding, and Tremblay

**Members absent:** Councilors: Hardy and Joubert

Also present were Carolyn Guerdet, Council Clerk and Paula Scott, Appeals Clerk

Chairman Gilbert called the meeting to order at 9:00 a.m. with the reading of the "Checklist To Ensure Meetings Are Compliant With The Right-to-Know Law During The State Of Emergency". He then completed a roll call of those in attendance whose names are listed above.

### **1. Approval of Minutes of the June 10, 2020 Meeting**

- ***Councilor Tremblay made a motion to accept the June 10, 2020 minutes with a date correction, second by Councilor Butler. Motion passed unanimously with a roll call vote and Councilor Spaulding abstaining.***

### **3. New Business**

- a. New Pool Rules – Ted Diers, Watershed  
Env Wq 1100 Public Bathing Places. Regulation of pools and ponds around the state.  
Public hearing on October 8<sup>th</sup> and comments open to the 23<sup>rd</sup>. Rules were explained and questions and comments taken from the Council.

### **2. Status of Appeals**

Paula Scott, Appeals Clerk

#### **I. New Appeals**

#### **II. Decisions and Orders that need to be written finalized and issued.**

#### **Docket No. 18-09 WC Rae-Ann Melacon and Suzanne Fournier Appeal**

Re: June 18, 2018 approval of Alteration of Terrain Permit No. AoT-1437 issued to Leighton A. White, Inc.

Hearing Officer: David Conley, Esq., assigned on 9/17/18

Recusals: Councilor Henderson

Status: July 5, 2018 received Notice of Appeal. Council accepted Appeal September 12, 2018. . 4/12/19 issued Notice of Rescheduled Hearing from May 8th to August 14, 2019 at 9 a.m. Hearing is rescheduled to September 11, 2019 at 9 a.m. Hearing was held September 11, 2019 at 9 a.m. and was continued to October 9, 2019 at 9:30 a.m. 9/20/19 received State's Assented to Motion to Continue Hearing. 9/25/19 issued ruling granting State's Assented-to Motion to Continue Hearing and rescheduling it for January 8, 2020 at 9 a.m. January 27, 2020 issued Final Order Granting Appeal. February 26, 2020 received Appellants' Motion for Rehearing. March 3, 2020 received State's Objection to Motion for Rehearing. 3/5/20 received Appellants' Notice of Withdrawal of First and Second Grounds of Aggrievement. Motion accepted by Council on June 10, 2020. 6/11/2020 issued Letter Granting Appellants' Motion for Rehearing.

**III. Hearings or PHCs Pending****Docket No. 19-16 WC (PNA) – Midlands Investments, LLC Appeal**

Subject: 0711/19 Denial of AoT permit application #181224-189

Hearing Officer: David Conley, Esq., assigned on 10/11/19

Status: September 23, 2019 received Petition for Appeal and Assented-To Motion to Stay. 9/26/19 issued Receipt of Appeal letter. Council accepted Appeal today, 10/9/19. October 11, 2019 issued Appeal accepted letter. 10/23/19 issued letter granting Assented-To Motion to Stay and scheduled PHC for December 2, 2019 at 9 a.m. 12/2/19 issued Pre-hearing Order scheduling a second PHC for January 6, 2020 at 9 a.m. and Hearing for February 12, 2020 at 9 a.m. 12/19/19 received Assented-To Motion to Stay. 12/19/19 issued letter granting Assented-To Motion to Stay and rescheduled Hearing for June 10, 2020 at 9 a.m. 12/23/19 received Withdrawal of Counsel- Dana Bisbee. January 6, 2020 received Appearance from Allen Brooks. May 15, 2020 issued Hearing Cancelled Notice and request for status report by June 15<sup>th</sup>. June 23, 2020 received Status Report.

**Docket No. 20-04 WC – Biological Recycling Co., LLC et al. Appeal**

Re: 2/7/20 Administrative Order No. 20-004 WD

Hearing Officer: David Conley, Esq., assigned on 06/19/20

Recused: Richard Geisser. This recusal was withdrawn September 9, 2020.

Status: March 9, 2020 received Notice of Appeal. 3/12/20 issued insufficient Appeal letter. 3/23/20 received revised Notice of Appeal. 3/26/20 issued Receipt of Revised Appeal letter. May 14, 2020 received Appearance of Heather Neville. Council voted to accept the Appeal June 10, 2020. 6/12/20 issued Appeal Accepted letter. August 7, 2020 issued Notice of Pre-hearing Teleconference scheduled for August 28<sup>th</sup> at 10 a.m. September 1, 2020 issued 8/28/20 Pre-hearing Order scheduling hearing for February 10, 2021 at 9 a.m.

**Docket No. 20-06 WC – Matthew & Laura Graves, et al. Fogg Appeal**

Subject: 4/2/20 Approval of AoT-1780 permit, issued to Dale White

Hearing Officer: David Conley, Esq., assigned on 06/19/20

Status: April 30, 2020 received Notice of Appeal. May 4, 2020 issued Receipt of Appeal Letter. 5/5/20 issued CORRECTED Receipt of Appeal letter correcting Council meeting date. 5/11/20 received Leighton A. White, Inc.'s Motion to Intervene. June 2, 2020 received withdrawal as a Party from Tina Vallier. Council voted to accept the Appeal June 10, 2020. 6/12/20 received Appearance from Atty. Christopher Aslin for the Department and issued Appeal Accepted letter. August 7, 2020 issued Notice of Pre-hearing Teleconference scheduled for August 28<sup>th</sup> at 9 a.m. September 1, 2020 issued 8/28/20 Pre-hearing Order scheduling hearing for March 10<sup>th</sup> and 11<sup>th</sup>, 2021 at 9 a.m. Chairman Gilbert asked the Councilors to block these dates.

**IV. Inactive/Status Letter or Pending Settlement/Withdrawal****3. New Business****b. Water Division Update – Tom O'Donovan, Director**

Last reports were Sept 2019 and January 2020 so good to be back. Under COVID now critical priorities for staff and public safety. Limited public access to the building is in place. Now in budget development for 2023. There is a hiring freeze. DES staff is working so well under these conditions with all the challenges. The drought is having deep impacts across the state. He then reviewed the bureaus of the Water Division. Questions and comments were received from the Council.

4. **Old Business**

- a. Council Ratification of Approval of Motion for Reconsideration  
Docket No. 18-09 WC – Rae-Ann Melancon and Suzanne Fournier Appeal  
Chairman Gilbert and the Councilors that heard this appeal in June were presented with a Motion for Reconsideration with findings around DES information of threatened and endangered species. A quorum voted to accept the Reconsideration. It has been advised to have the full council to ratify that decision by the Dept. of Justice. Clarify that the motion granted was only on the 3<sup>rd</sup> basis of the aggrievement.
- ***Motion was made to ratify, by the whole Council present, the Motion for Reconsideration of 18-09 WC by Councilor O'Brien, seconded by Councilor Tremblay. Discussion was held. The Motion for Reconsideration will be open to be heard by the whole council, limited to the one basis of aggrievement. Motion passed via a roll call vote with one abstaining.***

5. **Next Meeting**

October 14, 2020

6. **Adjournment**

- ***Councilor Henderson made a motion to adjourn, second by Councilor Tremblay. Motion passed unanimously.***

Meeting was adjourned at 10:14 a.m.

